

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION**

BLAKE J. WATTERSON;	§	
	§	
<i>Plaintiff,</i>	§	
	§	
v.	§	Civil Action No. 4:23-cv-00080
	§	
BUREAU OF ALCOHOL, TOBACCO,	§	
FIREARMS AND EXPLOSIVES;	§	
	§	
STEVEN DETTELBACH, in his	§	
official capacity as Director of the	§	
Bureau of Alcohol, Tobacco, Firearms	§	
and Explosives;	§	
	§	
UNITED STATES DEPARTMENT	§	
OF JUSTICE;	§	
	§	
MERRICK GARLAND, in his official	§	
capacity as Attorney General of the	§	
United States; and	§	
	§	
UNITED STATES OF AMERICA,	§	
	§	
<i>Defendants.</i>	§	

**PLAINTIFF’S NOTICE OF SUPPLEMENTAL AUTHORITY**

Plaintiff Watterson files this Notice of Supplemental Authority to inform this Court that the United States Court of Appeals for the Fifth Circuit granted Appellants’ Opposed Motion For a Preliminary Injunction Pending Appeal today in *Mock v. Garland*, No. 23-10319. *See* Ex. 1: Unpublished Order.

The *Mock* plaintiffs challenged the final rule, ATF, *Factoring Criteria for Firearms with Attached “Stabilizing Braces,”* 88 Fed. Reg. 6,478 (Jan. 31, 2023) (the “Rule”), that Watterson challenges in this case. Along with other arguments, the

*Mock* plaintiffs argued that the Rule violates the Second Amendment and separation-of-powers provisions and exceeds the Department's statutory authority. Pls.' Mot. for Prelim. Inj., at 11-15, 22-29, *Mock v. Garland*, No. 4:23-cv-00095-O, ECF No. 36 (N.D. Tex. Feb. 21, 2023). The *Mock* plaintiffs also moved for a preliminary injunction, or alternatively relief under 5 U.S.C. § 705, *id.* at 41-45, which the district court denied, Op. & Order on Pls.' Mot. for Prelim. Inj., *Mock*, No. 4:23-cv-00095-O, ECF No. 40 (N.D. Tex. Mar. 30, 2023). The *Mock* plaintiffs then moved for a preliminary injunction pending appeal from the Fifth Circuit, which was granted today. *See* Ex. 1.

Today's order further demonstrates that Watterson's claims are likely to succeed and that he is entitled to preliminary relief (and summary judgment) as previously explained. *See* § 705 Mot., ECF No. 7; § 705 Mot. Reply, ECF No. 25, *see also* Summ. J. Mot., ECF No. 6. The order, however, is limited to the *Mock* plaintiffs and does not provide *any* relief to Watterson. Accordingly, Watterson daily suffers the irreparable harm of being deprived of his constitutional rights while he waits for this Court to rule on his § 705 motion. *See* Order, ECF No. 18 at 1-2 (stating that the Department could enforce the Rule after April 1, 2023, and that the "compliance date" for the Rule is May 31, 2023). Watterson therefore respectfully requests that this Court rule on his Motion for Relief Under 5 U.S.C. § 705 or, Alternatively, for a Preliminary Injunction as soon as possible.

Date: May 23, 2023

Respectfully submitted,

/s/Autumn Hamit Patterson

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**CERTIFICATE OF SERVICE**

I certify that on May 23, 2023, I electronically filed the foregoing document with the Clerk of the Court using this Court's CM/EMF system, which will notify all counsel of record of such filing.

/s/Autumn Hamit Patterson  
AUTUMN HAMIT PATTERSON